

Families and Children Manual	Section: Financial Eligibility
Policy Manual Number: 010.055	Chapter: Treatment of Resources: Ownership, Equity Value and Accessibility for Medically Needy

## **TREATMENT OF RESOURCES: OWNERSHIP, EQUITY VALUE AND ACCESSIBILITY FOR MEDICALLY NEEDY**

**Legal Authority: 42 CFR 435.840; 42 CFR 435.845; 45 CFR 233.20**

### **1. Policy Statement**

A resource is real or personal property which has economic value. Resources can include, but are not limited to cash, savings, investments, houses, land, vehicles, etc. The household's resources are evaluated for ownership, accessibility and equity value. All resources are countable unless specifically excluded by regulation.

### **2. Definitions**

**Resource:** Cash or other liquid assets, or any real or personal property that an individual owns jointly or individually that can be converted to cash and used for medical support and maintenance.

Resources are those assets the individual has on hand at the beginning of the month as opposed to income, which is any cash, wages, pensions or other funds received during the month.

### **3. Liquid and Non-Liquid Resources**

Liquid resources are cash and other resources that can be readily converted to cash. Examples of resources that are ordinarily liquid include (but are not limited to) stocks, bonds, mutual fund shares, promissory notes, mortgages, life insurance policies, financial institution accounts (savings, checking, time deposits/CDs) and similar items.

The value of countable liquid resources is typically based on the specific value of the resource, e.g., the amount in the financial account, the cash surrender value, or the value of the note held by the client.

Non-liquid resources are resources that cannot reasonably be immediately converted into cash. A resource which has been determined to be non-liquid for any reason is not considered inaccessible or excluded simply because the value of the asset cannot be accessed at the time of application.

The value of countable non-liquid resources is based on the resource equity value.

### **4. Fair Market Value (FMV)**

The FMV of a resource is determined based on the type of resource. For example, bank accounts are based on the amount of money in the account. Certificates of deposit and other time deposits are based on the amount of money that can be withdrawn after penalties for early withdrawal. Car values are based on National Automobile Dealers Association (NADA) values or statements from knowledgeable sources, such as area car dealers. Real estate is based on Total Market Appraisal, and can be found at [http://www.assessment.cot.tn.gov/RE\\_Assessment/](http://www.assessment.cot.tn.gov/RE_Assessment/), which is the State of Tennessee's Comptroller of the Treasury's Real Estate Assessment Data listing. Nine counties do not provide property information through the Comptroller's listing. However, links to the property information for those nine counties can be found on the Comptroller's website.

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Other types of resources are valued based on statements from knowledgeable sources or other means that are reasonable and appropriate to the type of resource being valued.

Fair market value is an estimate of the value of an asset, if sold at the prevailing price at the time it was actually transferred. Value is based on criteria you use in appraising the value of assets for the purpose of determining Medicaid eligibility.

## **5. Equity Value**

The equity value of a resource is the FMV minus the debt or amount owed on the resource (equity = FMV – amount owed). Only the equity value of an accessible resource is counted toward the resource limit, for resources other than vehicles.

Only debts (amounts owed) that are secured by liens or other legal encumbrances against the resource can be subtracted from the FMV when determining equity.

## **6. Resource Accessibility & Availability**

Resources are considered available either when actually available to the individual or when the individual has a legal or equitable interest in the property or asset, and has the legal or equitable ability to access funds or convert non-cash property into cash. If the individual has the legal or equitable ability to access his or her funds, the resource is considered available regardless of whether the individual has the practical ability to access the resource or convert non-cash property into cash.

The individual's incompetence, whether presumed or actual, does not bar the person's legal authority to withdraw his or her liquid resources in the situation where a conservator, guardian or someone acting on the person's behalf has not been legally appointed.

The resources belonging to an individual whose conservator, guardian, or legally appointed representative does not cooperate with TennCare during the facilitation of accessing resources, shall be considered inaccessible, assuming the methods to access the resources have been fully exhausted.

For applicants who do not have a conservator, guardian or legally appointed representative, or for applicants whose conservator, guardian or legally appointed representatives cannot or will not perform his or her duties on behalf of the individual, contact the Eligibility Policy Unit for assistance.

Consider jointly-owned resources accessible according to the information above, unless the individual rebuts ownership or accessibility, and can verify that the joint ownership does block accessibility of the resource.

## **7. Ownership**

### **a. Determining Ownership**

Ownership of a resource is determined by the:

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- Name(s) on the account, title, deed, contract, etc.;
- Source of the funds in the account or used to purchase the resource;
- Purpose for which the account or investment was opened or made; and
- Activity and use of the account or investment.

If the title, deed, contract, account, etc., has only one name listed, the resource belongs to that individual. If more than one name is listed, it is considered a jointly owned resource. Once a resource has been determined to be jointly owned, the resource's accessibility must be evaluated.

## **b. Jointly Owned Resources**

Resources owned jointly with someone outside the household must be evaluated to determine accessibility to the household.

### **i. General Policy**

Count the pro rata share of any countable resource jointly owned by an individual in the household and another owner (non-household member). If the individual can demonstrate that he or she only has access to less than a pro rata share, only the portion to which he or she has access is a countable resource. See section 7c. Rebuttal of 100% Ownership or Accessibility of a Resource.

If an asset cannot be sold or converted due to the conditions of joint ownership, exclude the applicant's equity value in determining resource eligibility. The applicant's equity value in a jointly owned asset can be excluded under the following conditions:

- The joint owner of the resource, who is not a Financially Responsible Relative (FRR), refuses to consent to the sale of the asset or to purchase the applicant's interest; or
- The applicant is free to sell his or her own individual interest in the property, but is unable to find a buyer.

### **ii. Joint Financial Accounts (Checking, Savings, CD)**

#### **1. Unrestricted Access to Funds**

An individual with unrestricted access to the entire amount in a joint account has his or her pro-rata share of the value of the account as his or her available asset. Access to an "and" account requires the signatures of all owners of the account. Determine the accessibility of the value of an "and" account when the other owner(s) is a person other than the individual's FRR. If the joint owner is an FRR, the individual's pro-rata share of the entire value of the "and" account is available to him or her as a countable asset.

If an individual has unrestricted access to the funds in a joint account, but does not consider himself or herself to be the owner of the funds either fully or partially, he or she may rebut the ownership presumption.

#### **2. Restricted Access to Funds**

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An individual's access to the funds in an account may be restricted by the legal structure of the account. Review the terms of the account to determine if the individual has restricted access. If funds are held in trust for the individual, determine who generated the funds. If the funds in the account are the product of the individual's resources or effort, the amount in the account is a countable resource. If it is verified that the funds in the account were deposited by someone else, the value of the account is not a countable resource for the individual.

*Example: The following language restricts access to an account to one of the owners: "In trust for John Jones and Mary Smith, subject to the sole order of John Jones, balance at death of either to belong to the survivor." Only John Jones has unrestricted access to the account.*

### **c. Rebuttal of Ownership**

#### **i. Rebuttal of 100% Ownership or Accessibility of a Resource**

Applicants who wish to rebut a determination that he or she has unrestricted access to a resource will have 30 days from the date of application to present rebuttal evidence. If the individual presents all required rebuttal evidence corroborating his or her allegation of partial or non-ownership and the initial determination is rebutted, count only that portion of the resource the individual owns as an available asset.

#### **ii. Rebuttal Evidence**

Rebuttal of resource ownership and accessibility must be submitted in writing, and must be signed by all co-owners. The rebuttal must explain and include verification of the following:

- The reason co-ownership was established;
- The names of individuals whose funds were used to establish the account or purchase the asset, and the amounts each invested;
- The names of individuals who made deposits or withdrawals from an account or who have used the resource; and
- How the funds were spent or what the resources have been used to purchase.

#### **iii. Successful Rebuttal**

If the individual successfully rebuts the presumption of 100% ownership or accessibility, action must be immediately taken by the applicant to separate commingled funds, remove his or her name from the account or resource, or restrict his or her access to the account, as applicable to the situation.

### **d. Verification of Jointly-Owned Resources**

If a resource is jointly-owned, or an individual successfully rebuts a presumption of 100% ownership or accessibility, verification of ownership and accessibility are required. Verification

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must include bank statements, agreements, deeds, titles or other collateral statements. The individual's statement is not sufficient verification.

## **8. Resource Time and Value Limits**

A resource may be excluded for a limited period of time or excluded up to a certain amount. To determine applicable limits, see the specific resource type in the [Countable and Excluded Resources for Medically Needy Categories](#) policy. Time limits and value limits should be considered when assessing a commingled resource.

## **9. Commingled Resources**

Excluded liquid resources must be kept separate from countable liquid resources in order retain their excluded status.

An excluded liquid resource that is commingled in an account with countable liquid resources will retain its excluded status for 6 months from the date the resources were commingled, unless the resource is specifically excluded for a longer period of time. See [Countable and Excluded Resources for Medically Needy](#) policy. After six months, for resources not specifically excluded for a longer period of time, the total amount of the commingled account is counted as a resource.

A resource that has been excluded because it is prorated income and has been commingled in an account with countable resources will not be counted as a resource for the period of time over which it has been prorated.